

107TH CONGRESS
1ST SESSION

S. 173

To amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers.

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2001

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to impose a windfall profits adjustment on the production of domestic electricity and to use the resulting revenues to fund rebates for individual and business electricity consumers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Consumer Utilities
5 Turnback (CUT) Trust Fund Act of 2001”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

(3) Electricity prices are expected to continue to rise as a result of climbing natural gas prices.

(b) PURPOSE.—The purpose of this Act is to transfer windfall profits from the production of domestic electricity to fund assistance, in the form of rebates, for individual and business consumers.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after chapter 44 the following new chapter:

1 **“CHAPTER 45—WINDFALL PROFIT AD-**
 2 **JUSTMENT ON DOMESTIC ELEC-**
 3 **TRICITY PRODUCTION**

“Sec. 4986. Imposition of tax.

4 **“SEC. 4986. IMPOSITION OF TAX.**

5 “(a) IN GENERAL.—In addition to any other tax im-
 6 posed under this title, an excise tax is imposed on the
 7 windfall profit from the sale of electricity produced from
 8 a facility located in the United States at a rate equal to
 9 100 percent of such windfall profit.

10 “(b) WINDFALL PROFIT.—For purposes of this
 11 section—

12 “(1) IN GENERAL.—The term ‘windfall profit’
 13 means, with respect to the sale of electricity, so
 14 much of the profit from such sale as exceeds a rea-
 15 sonable profit from such sale determined for the cal-
 16 endar year in which such sale occurs.

17 “(2) REASONABLE PROFIT.—The term ‘reason-
 18 able profit’ means, with respect to any calendar
 19 year, the average of the reasonable profit determina-
 20 tions made by State public utility commissions for
 21 such year as calculated by the Federal Energy Regu-
 22 latory Commission.

1 “(c) TAX PAID BY PRODUCER.—The tax imposed by
2 this section shall be paid by the producer selling the elec-
3 tricity.

4 “(d) DEFINITIONS AND OTHER RULES.—For pur-
5 poses of this section—

6 “(1) PRODUCER.—The term ‘producer’ means
7 the holder of the economic interest with respect to
8 the electricity.

9 “(2) OTHER ADMINISTRATIVE PROVISIONS.—
10 For purposes of subtitle F, any tax imposed by this
11 section shall be treated as a tax imposed by subtitle
12 A.

13 “(e) RECORDS AND INFORMATION.—Each taxpayer
14 liable for tax under this section shall keep such records,
15 make such returns, and furnish such statements and other
16 information (to the Secretary and to other persons having
17 an interest in sale of the production of electricity) with
18 respect to such sale as the Secretary may by regulations
19 prescribe.

20 “(f) REGULATIONS.—The Secretary shall prescribe
21 such regulations as may be necessary or appropriate to
22 carry out the purposes of this section.”.

23 (b) CONFORMING AMENDMENTS.—

1 (1) Section 275(a)(6) of the Internal Revenue
2 Code of 1986 is amended by inserting “45,” after
3 “44,”.

4 (2) Section 6103(d)(1) of such Code is amend-
5 ed by inserting “45,” after “44,”.

6 (3) Section 6302(b) of such Code is amended
7 by striking “or 33” and inserting “33, or 45”.

8 (4) Section 6416(a)(1) of such Code is amended
9 by inserting “, or chapter 45 (relating to windfall
10 profit adjustment on domestic electricity produc-
11 tion),”.

12 (5) Section 6416(d) of such Code is amended
13 by striking “or 32” and inserting “32, or 45”.

14 (6) The table of chapters of subtitle D of such
15 Code is amended by inserting after the item relating
16 to chapter 44 the following:

“CHAPTER 45. Windfall profit adjustment on electricity produc-
tion.”.

17 **SEC. 4. ALLOCATION OF REVENUES FROM WINDFALL**
18 **PROFIT ADJUSTMENT ON ELECTRICITY PRO-**
19 **DUCTION TO INDIVIDUAL AND BUSINESS**
20 **CONSUMERS.**

21 (a) ESTABLISHMENT OF CONSUMER UTILITIES
22 TURNBACK TRUST FUND.—Subchapter A of chapter 98
23 of the Internal Revenue Code of 1986 (relating to estab-

1 lishment of trust funds) is amended by adding at the end
 2 the following new section:

3 **“SEC. 9511. CONSUMER UTILITIES TURNBACK TRUST FUND.**

4 “(a) CREATION OF TRUST FUND.—There is estab-
 5 lished in the Treasury of the United States a trust fund
 6 to be known as the ‘Consumer Utilities Turnback Trust
 7 Fund’, consisting of such amounts as may be appropriated
 8 or credited to such Trust Fund as provided in this section
 9 or section 9602(b).

10 “(b) TRANSFERS TO TRUST FUND.—

11 “(1) IN GENERAL.—There are appropriated to
 12 the Consumer Utilities Turnback Trust Fund
 13 amounts equivalent to the net revenues received in
 14 the Treasury from the taxes imposed by section
 15 4986.

16 “(2) NET REVENUES.—The term ‘net revenues’
 17 means the amount estimated by the Secretary based
 18 on the excess of—

19 “(A) the taxes received in the Treasury as
 20 described in paragraph (1), over

21 “(B) the decrease in the tax imposed by
 22 chapter 1 resulting from the imposition of the
 23 taxes described in paragraph (1).

24 “(c) EXPENDITURES FROM CONSUMER UTILITIES
 25 TURNBACK TRUST FUND.—Amounts in the Consumer

1 Utilities Turnback Trust Fund shall be available, without
 2 further appropriation, for rebates for individual and busi-
 3 ness electricity consumers as provided by the Federal En-
 4 ergy Regulatory Commission, after the Commission has
 5 received from the Governor of any State a petition to fund
 6 such rebates. The funds must be spent within the fiscal
 7 year in which such funds were made available.”.

8 (b) CONFORMING AMENDMENT.—The table of sec-
 9 tions for subchapter A of chapter 98 of the Internal Rev-
 10 enue Code of 1986 is amended by adding at the end the
 11 following new item:

“Sec. 9511. Consumer Utilities Turnback Trust Fund.”.

12 **SEC. 6. EFFECTIVE DATE.**

13 The amendments made by this Act shall apply to
 14 sales after December 31, 2000.

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